

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAFI MUSTAPHA BZEIH,

Plaintiff,

v.

CASE NO. 12-CV-14107

HONORABLE GEORGE CARAM STEEH

UNITED STATES,

Defendant.

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**ORDER DENYING PLAINTIFF'S MOTION FOR
TIME EXTENSION TO FILE LATE APPEAL (Doc. 90)**

Plaintiff Safi Mustapha Bzeih was convicted of bank fraud after pleading guilty and was sentenced to 25 months imprisonment. On September 14, 2012, Bzeih filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255 which this court denied as untimely in an order issued on February 13, 2013. On June 12, 2013, Bzeih filed a notice of appeal and a motion to file a late appeal. The time for the filing a notice of appeal of an order deciding a § 2255 petition is 60 days after entry of the order appealed. Fed. R. App. P. 4(a)(1)(B)(i). In this case, the 60 day period expired on April 15, 2013. Bzeih now seeks an extension of time to file his late notice of appeal. In a civil case, the district court may extend the time to file a notice of appeal if “a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires” and a party shows excusable neglect or good cause. Fed. Rule of App. P. 4(a)(5)(A). The district court may not consider a motion for an extension of time unless it is made within the 30 day time limit prescribed in Federal Rule of Appellate Procedure 4(a)(5). Jackson v. Chandler, 463 Fed. Appx. 511, 513 (6th

Cir. 2012). The requirement that the party must move for the time extension within 30 days of entry of the order to be appealed is jurisdictional. Mattingly v. Farmers State Bank, 153 F.3d 336, 337 (6th Cir. 1998). Because Bzeih filed his motion for an extension of time more than 30 days after the issuance of this court's order denying his § 2255 petition, this court lacks jurisdiction to consider his motion. Accordingly, Bzeih's motion for an extension of time to file his notice of appeal (Doc. 90) hereby is DENIED.

IT IS SO ORDERED.

Dated: September 4, 2013

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 4, 2013, by electronic and/or ordinary mail and also on Safi Bzei A#: 046-657-919, Etowah County Jail, 827 Forrest Avenue, Unit 10-24, Gadson AL 35901.

s/Barbara Radke
Deputy Clerk